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October 12, 2016

VIA ECF

Hon. Eric N. Vitaliano
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Rodriguez-DePena v. Parts Authority, Inc., et al.* [Case No. 15-cv-06463-ENV-VMS]

Dear Judge Vitaliano:

We write on behalf of Defendants Michigan Logistics, Inc., Northeast Logistics, Inc. and Parts Authority Inc. to notify the Court of recent developments in the above-referenced action, and to request that the Court enforce a settlement agreement executed by Plaintiff Rodriguez-DePena.

As Your Honor may recall, Defendants moved to compel Plaintiff Rodriguez-DePena to submit his claims to arbitration. Before Plaintiff Rodriguez-DePena filed the Complaint in this case, he filed a consent to join the collective action asserting the same claims he asserted in this case. (*Diaz et al. v. Michigan Logistics, et al.*, 15-cv-01415 (LDW) (E.D.N.Y.) (Docket No. 48)). After extensive proceedings in the *Diaz* case, which included unfair labor practice proceedings challenging the arbitration requirement, the parties eventually reached a settlement of all wage claims. On July 26, 2016, Rodriguez-DePena personally signed the settlement agreement which included a release of "any and all ... claims ... that Plaintiffs ... claimed to have ... regarding any events that occurred from the beginning of the world through the date of their execution of this Agreement ... [including] claims for compensation under federal and state law including but not limited to the FLSA and the NYLL." The settlement was approved by an Administrative Law Judge of National Labor Relations Board, and thereafter, Judge Wexler approved a stipulation of dismissal of the Diaz action with prejudice. (Docket No. 72).

Promptly after the settlement agreement became effective, defense counsel contacted Abdul K. Hassan, counsel of record for Rodriguez-DePena in this case, to inquire as to whether he would voluntarily dismiss his claims with prejudice in light of the parties' settlement agreement. On September 14, Mr. Hassan informed defense counsel that he would speak with Rodriguez-DePena to discuss his options. While counsel was awaiting a response from Mr. Hassan, this Court granted Defendants' motion to compel arbitration. Rodriguez-DePena has since refused to honor the terms of his settlement agreement and has filed an appeal from this Court's Order. (Docket No. 20).

Accordingly, Defendants respectfully request that the Court re-open this case, enforce the settlement agreement, and dismiss Plaintiff's claims with prejudice on that basis, thereby rendering moot the Court's September 30 Order compelling arbitration of Plaintiff's claims.

Respectfully submitted,

/s/ Andrew P. Marks

Andrew P. Marks

Attachment

cc: Sharon P. Stiller
Abdul K. Hassan

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